



# FINAL REPORT

## Identity Theft Prevention Study Committee

June 2009

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### MEMBERS

Senator Steve Warnstadt, Co-chairperson  
Senator Rob Hogg  
Senator Steve Kettering

Representative Doris J. Kelley, Co-chairperson  
Representative Ako Abdul-Samad  
Representative Dawn E. Pettengill

### Staff Contacts:

Ed Cook, Senior Legal Counsel,  
(515) 281-3994,  
[ed.cook@legis.state.ia.us](mailto:ed.cook@legis.state.ia.us)

Rachele Hjelmaas, Senior Legal  
Counsel, (515) 281-8127,  
[rachele.hjelmass@legis.state.ia.us](mailto:rachele.hjelmass@legis.state.ia.us)

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Testimony and Discussion
- II. Recommendations
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Legislative Services Agency

### AUTHORIZATION AND APPOINTMENT

The Legislative Council established the Identity Theft Prevention Study Committee in 2008 and authorized the Committee to meet during the 2008 Legislative Interim. The Committee was given the following charge: Assess and review the extent to which personal, identifying information of a resident of this state is in the possession of government or government-affiliated organizations, and which, if disclosed, could render the resident vulnerable to identity theft. Also assess the extent to which public officials, government organizations, and affiliated organizations make available, are in possession of, have access to, or are disclosing or selling such information for compensation. Based upon this assessment and review, the Committee shall develop recommendations relating to these practices.

The Committee was authorized for a one meeting day and the meeting was held on December 2, 2008.



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### I. December 2, 2008, Meeting – Testimony and Discussion

#### A. Government Perspective on Identity Theft and Access to Public Records

##### 1. Citizens' Aide/Ombudsman

The Citizens' Aide/Ombudsman identified several policy decisions that should be made relative to privacy issues and the need for open access to government:

- a. There is a need to identify what constitutes personal information.
- b. Government bodies should be given the authority and discretion to redact personal information from public records.
- c. A determination should be made on who should have access to view unredacted versions of public records.
- d. Current laws requiring state agencies to adopt fair information practices (Code Section 22.11) should be applied to local government entities and state agencies should continually review compliance with its fair information practices.
- e. Government entities should be given the authority to charge for enhanced access to public records.
- f. A policy needs to be implemented providing for the disposition of public records with personal information.

##### 2. Attorney General's Office – Consumer Protection Division

- a. The Attorney General's office is unique in that it deals with enforcement of privacy-related issues, it has public records, and it advises agencies in making decisions relative to that agency's public records.
- b. The goal of any public records and privacy policy should be to protect our constituents. Government should enhance its efforts to increase the protection of personal financial information that it collects. Personal financial information should not be sold nor should it be collected unless absolutely necessary.

##### 3. Chief Information Officer, Department of Administrative Services

###### a. Overview

The proper balance that needs to be found is between the right to privacy and the public's right to know. The digital age has changed everything, making obscure government records much easier to access. The need to keep personal information out of the hands of identity thieves while giving government and businesses the means to correctly identify people is critical.

###### b. Recommendations for Government Records Custodians:

- i. Adopt a privacy policy that includes responsible information-handling practices.



- ii. Appoint a knowledgeable individual responsible for the privacy policy.
- iii. Store sensitive personal data in secure computer systems.
- iv. Store physical documents in secure spaces such as locked or accessed controlled cabinets. Data should only be available to qualified persons.
- v. Dispose of documents properly, including shredding paper with a cross-cut shredder and securely deleting electronic files.
- vi. Build appropriate document destruction capabilities into the office infrastructure.
- vii. Conduct regular staff training.
- viii. Conduct privacy walk-throughs and make spot checks on proper information handling.
- ix. Limit data collection to the minimum information needed.
- x. Limit data displays and disclosure of social security numbers and other sensitive information.
- xi. Restrict data access to staff with a legitimate need to know.
- xii. Safeguard mobile devices that contain sensitive personal data.
- xiii. Notify constituents and employees of computer security breaches.
- xiv. Develop a response plan to be used if sensitive employee or constituent data is lost, stolen, or inappropriately acquired electronically.

## **B. Identity Theft and Data Management – Other Perspectives**

### **1. Coalition for Sensible Public Records Access**

- a. Unvalidated, single-factor authentication and a highly evolved and unchallenged cybercrime industry are the primary causes of identity theft, fraud, and crime, not personal data availability and access in public records. As a result, redaction of personal information in public records will not work.
- b. Without the ability to uniquely identify the subject of a record, the members of the public that policymakers seek to protect will be those who are most harmed by false positive and false negative findings derived from incomplete and inaccurate public records.
- c. Public records are critical to correctly identifying a person. Reforming the credit markets in a responsible fashion cannot occur without accurate and complete public records to guide decisions.
- d. Proper authentication is critical. Using the proper number, kind, and mix of factors to authorize a person or attribute behaviors is crucial in providing proper authentication.



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- e. Additional "cyber cops" and increased intergovernmental cooperation are desperately needed.
- f. The information industry is critical and some accommodation must be found to maintain the flow of accurate public records and hence, the flow of these services.

### 2. Lexis/Nexis presentation

Most identity theft is caused from a personal encounter, not access to public records. Private companies should be aided in ensuring that people are properly identified and this effort requires access to public record information.

## C. Iowa Land Records – Public Access to Real Estate Records

### 1. Iowa Land Records Project – County Recordors

- a. The Iowa land records website was launched in January 2005 and currently is operated pursuant to a Code Chapter 28E agreement. The website exists as a method for real estate transactions to be recorded and made available to the public throughout the state. Issues arose earlier this year in that some of the records contain images of documents that contain personal information, such as social security numbers. As a result, access to the website has been restricted.
- b. **Current Activities.** As a result of the decision to limit access to much of the information on the website, Iowa Land Records is currently pursuing a request for proposals for image redaction services. In addition, legislative options are being explored to ensure future access to clarify the duties and responsibilities of county records relative to public web access to real estate records.
- c. **Legislative Considerations and Options:**
  - i. While current law prohibits document preparers from including personally identifiable information in real estate documents and requires recordors to have a redaction procedure in place, recent concerns indicate that a more comprehensive redaction process is expected. Additionally, recordors have expressed some uncertainty about their statutory authority to redact information from real estate documents and about whether all or a portion of personally identifiable information should be redacted. An amendment to Code Section 331.606A may help clarify these issues.
  - ii. Recordors in many counties have previously taken the initiative to redact social security numbers from real estate documents. As additional steps are taken to redact personally identifiable information from electronic documents, it is important that unaltered versions of each document be archived in the event that it is necessary that the personally identifiable information be accessible to authorized persons or organizations.
  - iii. Recordors and other county officials have been required to provide open access to records housed in the courthouse or other county administrative facilities. The "golden rules" of public records have required recordors to



provide access to records without restrictions. While privacy activists have recommended that access to any record with personally identifiable information be restricted, there could be substantial cost and service disruption if redaction requirements are applied to documents archived in traditional formats such as paper or microfilm. Legislation may be needed to clarify that individuals may continue to view and copy records when visiting the office of the county recorder.

- iv. If a comprehensive redaction process is implemented, county recorders and the governing body for the county land records information system may desire protection from liability for redaction errors.
- v. Legislation may be needed to clarify the authority to sell land record files, especially as it relates to providing external organizations with access to real estate records in “bulk” or batch electronic files.
- vi. During the five years since the enactment of the original enabling legislation for the county land records information system, many structures and policies have been established under a Code Chapter 28E agreement among the participating counties. It would be beneficial to have some of these structures and policies codified to ensure the long-term success of the system.
- vii. Redaction processes and the reconfiguration of the image repository and operating system may be needed to ensure the protection of personally identifiable information. Costs for these activities and for resources to ensure the long-term sustainability of the system need to be considered and options to secure the necessary funding must be explored. In the absence of additional resources, the system will continue to operate with access to index information only, maintenance of electronic submission services, and incremental improvements to basic functions. Possible options include an increase in the electronic transaction fee under Code Section 331.605C, authorization to reconfigure the system as a subscription service similar to the Iowa Court Information System, or both.

## 2. Iowa Land Title Association

The Association made the following points:

- a. The bulk sale of data hurts Iowa's land title system and facilitates capital flight from the state-run title guaranty program.
- b. While the Association opposes online land records, if the website is to be continued, the Association would favor a subscription-based system wherein the users who wish to benefit from the online records pay the costs.
- c. The Association opposes charging a fee to everyone who files a document in order to build, fund, and maintain an online database of real estate records.
- d. The Association supports restricting access to online land records to those who have a legitimate business need to access such records.



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### D. Privacy Advocate

Personal information should not be contained in public records and at least should not be made public without the consent of the individual affected. Redaction does not work. Posting social security numbers in public records should be penalized and rewards should be given to those who find personal information in public records.

## II. Recommendations

The Committee made the following recommendations:

1. Iowa's public records law needs to define the term "personal information" and should consider using the definition for "personal information" found in the security breach legislation that is codified at Code Section 715C.1(11).
2. Iowa law should give government bodies the authority and discretion to redact certain personal information from a public record.
3. Iowa law should specify who has access to view unredacted versions of public records.
4. State agencies should regularly review and determine compliance with Code Section 22.11, the Iowa Fair Information Practices Act, and Iowa law should extend these requirements to local governments.
5. Government bodies should be given the authority to charge a flat rate, a subscription fee, a per-transaction fee, or a combination thereof for "enhanced electronic access" to public records.
6. Government bodies should be required to take reasonable precautions when disposing of confidential records or records containing personal information.
7. A permanent Public Records, Open Meetings, and Privacy (PROMP) Advisory Committee should be created to serve as a resource for ensuring compliance with Iowa laws dealing with public records and open meetings, including but not limited to Code Chapters 21 and 22, referred to as "freedom of information laws."
8. Government agencies should not ask for and make available personal information, including social security numbers, credit card numbers, and other financial account numbers, unless having established reasons as to why the information is absolutely necessary.
9. County recorders should have a duty to preserve an unaltered version of each document they record, but should also have the duty to redact personal information on documents made generally available to the public.



10. Offshore entities should be restricted from accessing government records that contain unredacted social security numbers.
11. Consideration should be given to creating an areawide network connecting all governmental entities with one entity solely responsible for redacting personal information and the dissemination of all electronic documents.

### III. Materials Filed With the Legislative Services Agency

The following materials listed were distributed at or in connection with the meeting and are filed with the Legislative Services Agency. The materials may be accessed from the <Additional Information> link on the Committee's Internet webpage.

<http://www.legis.state.ia.us/asp/Committees/Committee.aspx?id=238>

1. [12/2/2008 – #1 William Angrick, Citizens' Aide/Ombudsman—Committee Presentation.](#)
2. [12/2/2008 – #2 William Angrick, Citizens' Aide/Ombudsman—Summary of Recommendations.](#)
3. [12/2/2008 – #2A William L. Brauch, Director, Consumer Protection Div., AG—Comments.](#)
4. [12/2/2008 – #3 Richard Varn—Committee Presentation.](#)
5. [12/2/2008 – #4 Richard Varn—Eugene Kaspersky—The Cybercrime Arms Race.](#)
6. [12/2/2008 – #5 Richard Varn—CSPRA—Social Security Numbers, Public Records, and Identity Theft – Just Say "No" to Redaction.](#)
7. [12/2/2008 – #6 Richard Varn—CSPRA—SSN's in the Private Sector—Comment.](#)
8. [12/2/2008 – #7 Richard Varn—MessageLabs—The Online Shadow Economy.](#)
9. [12/2/2008 – #8 Richard Varn—Computerworld Security—Article.](#)
10. [12/2/2008 – #9 Teresa Jennings—Lexis/Nexis—Committee Presentation.](#)
11. [12/2/2008 – #10 John Gillispie—DAS—The Records Custodians Dilemma—Public Records vs. Personal Privacy.](#)
12. [12/2/2008 – #11 Bill Blue—Iowa Land Title Association—Key Points.](#)
13. [12/2/2008 – #12 Bill Blue—Iowa Land Title Association—Data Tree, LLC Integration Agreement.](#)
14. [12/2/2008 – #13 Iowa Land Records—Committee Presentation.](#)
15. [12/2/2008 – #14 Iowa Land Records—Legislative Options.](#)
16. [12/2/2008 – #15 George Davey—Committee Presentation.](#)



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17. [12/2/2008 – Background Information, Ed Cook, LSA Legal Services.](#)
18. [12/2/2008 – Cate and Varn, The Public Record: Information Privacy and Access.](#)
19. [12/2/2008 – Iowa Land Records—Stakeholder Presentation.](#)
20. [12/2/2008 – PRIA—Privacy and Public Land Records.](#)
21. [12/2/2008 – PRIA—State Redaction Laws.](#)
22. [12/2/2008 – Social Security Numbers and County Recorders—Attorney General Opinion.](#)

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